REMARKS/ARGUMENTS

This is a Response to the Office Action mailed May 18, 2004, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire August 18, 2004. Enclosed is our check to cover the fee for the Supplemental Information Disclosure Statement and a one-month extension of time, to September 18, 2004. Twenty (20) claims, including five (5) independent claims, were paid for in the application. Claim 33 has been canceled. New claim 42 has been added. No new matter has been added to the application. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Claims 25-32 and 34-42 are pending.

Rejection under 35 U.S.C. § 112, first paragraph

The Examiner rejected claim 33 under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. Applicants have canceled claim 33.

Rejections under 35 U.S.C. § 103 referencing Reid et al.

Claims 25-27, 30, 32, 33, 36, and 38-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Reid et al. (U.S. Patent No. 5,103,548). Reid et al. teach the use of a split sleeve 66 and mandrel 10 to expand a single bushing 68 into tight contact with an opening 88 in a work member 84 (column 1, lines 40-65). In addition, Reid et al. teach that the bushing 68 has an underflush position with respect to the surface 82 on the first side of the member 84 (column 4, lines 10-15; Figures 5-9 and 11-13). To facilitate the installation of the bushing 68, Reid et al. teach the inclusion of a protrusion 34 in the puller tool 14 to abut the bushing 68 (column 4, lines 12-14; Figures 2-4). In addition to the single bushing 68 being specially designed, Reid et al. disclose that the single bushing 68 is installed in the work member 84, but do not teach, suggest, or provide any motivation to install more than one bushing or that "sufficient radial displacement initiated at the second inner surface of the second body results in substantially equal displacement of both the second outer circumference and the first inner circumference in an outwardly radial direction" (*re:* claim 25).

A Declaration pursuant to 37 CFR 1.132 is enclosed. The declarant, Mr. Reid, states that "The '548 patent teaches the installation of a single bushing in a work member via a disposable sleeve 16." Reid Decl., ¶ 6. In addition, "the sleeve taught by the '548 patent is not a bushing and does not function as a bushing." Reid Decl., ¶ 7. Thus, Mr. Reid concludes that the disposable sleeve taught by Reid et al. does not constitute a second bushing, and does not suggest the fixing of a second bushing in the passage of the first or outer bushing. Based on the foregoing, Applicants respectfully assert that the disclosure and teachings in Reid et al. do not obviate Applicants' claimed invention and that claims 25-27, 30, 32, 36, and 38-41 are allowable.

Claims 28, 29, 34, and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Reid et al. in view of Champoux (U.S. Patent No. 4,557,033). The disclosure in Champoux, like Reid et al., does not teach or disclose a duel bushing assembly. Therefore, the remarks above regarding Reid et al. are equally applicable to Champoux. Applicants submit that each of the identified claims are allowable and that the rejection under Section 103 should be withdrawn.

Claims 31 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Reid et al. (U.S. Patent No. 5,103,548) in view of Shimizu et al. (U.S. Patent No. 5,885,318). Shimizu et al. is directed to methods for forming bushing base plates. In one embodiment, the bushing base plate is prepared by forming a circular aperture through the bushing base raw plate, inserting a hollow tube into the aperture, and bonding the hollow tube to the bushing base raw plate by means of thermal diffusion. However, the defined "bushing base plate" in Shimizu et al. is a plate with holes through which molten glass is pulled to produce glass fibers. Based on the foregoing, Applicants submit that Schimizu et al. is a nonanalogous reference because it is not in the field of applicants' endeavor nor is it reasonably pertinent to the particular problem with which the present '857 application is concerned. *See In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ.2d 1443, 1445 (Fed. Cir. 1992); *In re Clay*, 966 F.2d 656, 659, 23 USPQ.2d 1058, 1060-61 (Fed. Cir. 1992) (a reference is not reasonably pertinent if it is one which, because of the matter with which it deals, logically would not have commanded itself to the inventor's attention in considering his problem); and MPEP § 2141.01(a). Therefore,

Applicants respectfully request that Schimizu et al. be removed as a cited reference and that the present Section 103 rejection be withdrawn.

Rejection under 35 U.S.C. § 103 referencing Gänslein

Claims 25 and 32 were rejected under 35 U.S.C. § 103(a) as being obvious over Gänslein (European Patent No. 891007). In the Office Action, the Examiner states that Applicants' previous arguments were unpersuasive because Applicants essentially argued that the bushings in Gänslein do not fit closely together.

In light of a further review of Gänslein and an examination of the German Utility Patent 8901317 U1 (the "German patent") referenced in Gänslein and enclosed herein, Applicants amend their previous remarks and provide the Examiner with detailed distinctions between the cited art and Applicants' claims. Applicants submit that an understanding of the German patent is a prerequisite to understanding the motivation and teaching behind Gänslein.

The German patent discloses a prior art bushing assembly in which a single bushing 1 having a first initial flange 5 is installed into a bore 10 in a rail 4 by axially and radially displacing bushing material. Reid Decl., ¶ 9. An expansion mandrel 15 is used to radially expand some of the bushing material into the rail 4, while other bushing material is axially and radially displaced slightly outward beyond the rim of the bore 10 in the rail 4 to form a second flange (Figure 3) on the opposite side of the rail 4 from the first flange 5. Reid Decl., ¶ 9. A bushing cap 23 having a hollowed out region 24 is then installed over the second flange. Reid Decl., ¶ 9. The bushing material that is displaced beyond the rim of the bore 10 to form the second flange provides some axial fixity with respect to the rail while radial fixity is obtained between the bushing 1 and the rail 4 in response to radial expansion by the mandrel 15. Reid Decl., ¶ 10. The bushing cap 23 is affixed to the entire assembly with a threaded bolt 20a and nut 21. Reid Decl., ¶ 10.

Gänslein admittedly incorporates the teachings of the German patent into the illustrated and described bushing assembly. Gänslein, English translation; lines 6-8[1]. In short,

[1] All references to the Gänslein patent, from this point forward, are made with respect to the English translation that Applicants previously submitted to the Examiner with the filing of the RCE.

Gänslein uses the concept of axially displaying bushing material as a means to fix an inner bushing 1 to an outer bushing 2. Gänslein teaches that two nested bushings 1,2 are installed in a rail web 9. Reid Decl., ¶ 11. The respective bushings 1,2 are rotationally and translationally fixed together. Reid Decl., ¶ 12. However, the outer bushing 2 is only translationally fixed with respect to the rail web 9 as a result of the opposing flanges 4,6 of the inner and outer bushings working in combination with the extrusion of material from the inner bushing 1 into the turned-out hollow 14 formed in the outer bushing 2. Reid Decl., ¶ 13. Gänslein provides a threaded bolt 17 to clamp the bushings onto the rail web 9. Reid Decl., ¶ 12.

In Gänslein, the outer bushing 2 is not radially expanded into the rail web 9 and thus, is not rotationally fixed with respect to the rail web 9. Reid Decl., ¶ 13. Specifically, comparison of Figure 2 with Figure 3 shows that the thickness of the inner bushing 1 is reduced while the thickness of the outer bushing 2 does not change in response to the drawing of the expansion mandrel 11. Reid Decl., ¶ 11. The limitation in claim 25 that "sufficient radial displacement initiated at the second inner surface of the second body results in substantially equal displacement of both the second outer circumference and the first inner circumference in an outwardly radial direction" makes claim 25 patentable over Gänslein because Gänslein does not disclose, teach, or even suggest an outer bushing could be radially expanded into a work member when a dual bushing assembly is employed.

Likewise, the limitation in claim 32 that "compressive stresses are developed in the first bushing and compressive stresses are further developed in an area of a work member that is contiguous with and substantially surrounding the first bushing when the radial displacement is initiated at the second inner surface of the second body" is not disclosed, taught, or even suggested in Gänslein. Applicants respectfully request that the Examiner reconsider the patentability of claims 25 and 32 in light of the remarks herein, the attached Reid Declaration, and the cited references. Applicants submit that independent claims 25 and 32 are not obvious in light of Gänslein and are thus in condition for allowance.

The Examiner further rejected claim 38 under 35 U.S.C. § 103(a) as being obvious over Gänslein in view of Reid et al. Applicants reiterate that Reid et al. disclose an assembly with a single bushing and the outer bushing 2 in Gänslein is not radially expanded and

is not rotationally fixed with respect to the rail web 9. Therefore, Applicants submit that claim 38 is allowable.

New Claim 42

In addition to the above, Applicants have submitted new claim 42. Although the language of this new claim differs from the other independent claims, the allowability of claim 42 will be apparent in view of the above remarks. Applicants direct the Examiner's attention to the limitation in claim 42 "wherein the metal bushing has a first position that permits the inner circumference of the radial member to be closely received by the outer circumference of the portion of the end extending beyond the opening in the work member, wherein the metal bushing has a second position in which the metal bushing is radially expanded to form an interference fit with the radial member." This limitation is not disclosed, taught, or suggested in any of the cited references. Accordingly, Applicants submit that claim 42 is in condition for allowance.

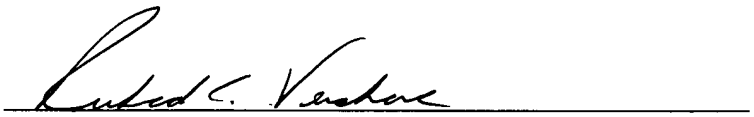
Conclusion

Overall, the cited references do not singly, or in any combination, teach or suggest at least some of the claimed features recited in the respective independent claims. Therefore, each of the respective independent and dependent claims are allowable. If the undersigned attorney has overlooked a relevant teaching in any of the references, the Examiner is requested to point out specifically where such teaching may be found.

Examiner Blount is encouraged to contact Mr. Vershave by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, he is encouraged to contact Mr. Vershave by telephone to expediently correct such informalities.

Respectfully submitted,

Seed Intellectual Property Law Group PLLC



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Enclosures:
Postcard
Declaration pursuant to 37 CFR 1.132 by Leonard F. Reid
German Utility Patent 8901317 U1
Supplemental Information Disclosure Statement
Form PTO-1449
Cited Reference (1)

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